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H.B. 6479 -- Doubling of small claims jurisdictional maximum

Judiciary Committee public hearing -- March 12, 2013

Testimony of Raphael L. Podolsky

Recommended Committee action: NO ACTION ON THE BILL
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This bill proposes to double small claims court jurisdiction from \$5,000 to \$10,000. Although as an informal court small claims is easier to use than a more formal court, there are important reasons why a doubling of the maximum to \$10,000, especially at this time, is not a good idea.

- Recent substantial changes to the small claims system should be absorbed, understood, and analyzed before any increase in the small claims maximum is seriously considered. At least three major changes in the small claims system have been implemented in the last two years:
 - The Practice Book rules have been changed in an effort to improve the likelihood that the defendant will receive the court papers, to reduce the number of default judgments, and to discourage the granting of judgments without adequate judicial review of the papers.
 - The plaintiff is now required to serve the small claims complaint itself. For years, the court papers were mailed to the defendant by the clerk.
 - The entry fee for filing a small claims case has more than doubled. The filing fee was increased from \$35 to \$75 in 2009 and to \$90 in 2012.

Perhaps as a result of these changes, the number of small claims filings has plummeted from 96,434 in FY 2009 to 50,023 in FY 2012. It is unclear to what extent these major changes have changed the character of the court. There is some reason to believe that they have may have increased the percentage of small claims cases that are bill collection cases by making it harder and more expensive to bring an action, but they may also have reduced the default rate by increasing the likelihood that defendants will actually receive the court papers. Until the impact of these changes is analyzed properly, further major changes, such as the doubling of the jurisdictional maximum proposed by H.B. 6479, should not be adopted.

- Small claims court is primarily a collection court, and the main beneficiaries of the proposed increase will be those who collect bills. Contrary to the image of a "people's court," the large majority of consumers who are parties in small claims court are there as defendants, not as plaintiffs. Most small claims court cases are collection cases in which a creditor or a debt buyer sues a debtor over an unpaid bill, with credit card debts and medical bills among the most frequent types of cases. A

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very large number of those cases result in default judgments in which the defendant does not respond to the papers or does not appear for trial. Indeed, with the exception of housing cases, only a small percentage of small claims cases reflect the "people's court" model of a consumer suing a business or even of one individual suing another individual.

- The informal procedure of small claims court is intended for "small" claims. As the jurisdictional maximum is increased, the purpose of the court becomes distorted. An amount as high as \$10,000 is not a "small" claim. There is no right to appeal a small claims decision. Increasing the jurisdiction risks undermining the nature of the court.
- The proposed increase far outstrips any adjustment based on inflation. The small claims maximum was set at \$5,000 in 2005. Since then, the Consumer Price Index (CPI) has risen 17.9%. This bill would raise the maximum by 100%. Indeed, every increase in the small claims maximum, going back to 1981 when it was set at \$1,000, has been at a rate much greater than inflation. Thus, the inflation rate from 1981 to 2005 was 113.3%. In contrast, the small claims maximum during that same period went up by 400.0%. It should come as no surprise that these non-inflation-related increases have significantly changed the character of small claims court.
- The present \$5,000 maximum is the most common maximum nationally. Connecticut's present \$5,000 jurisdiction limit is the median maximum for all states. It is also the most common maximum, with 14 states and the District of Columbia at that amount.